Police in the Pay of Mining Companies

The responsibility of Switzerland and Peru for human rights violations in mining disputes



COORDINADORA NACIONAL DE DERECHOS HUMANOS PERÚ

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Human Rights without Frontiers (Derechos Humanos Sin Fronteras, DHSF) is a human rights organisation which was inspired by the Liberation Theology movement that promotes and protects life and the environment and acknowledges and appreciates cultural diversity. DHSF operates in the higher-lying provinces of Cusco where economic development has a considerable impact on the Campesinos' way of life.

The **National Human Rights Coordinating Committee** (Coordinadora Nacional de Derechos Humanos, CNDDHH) in Peru is a coalition of 81 civil society bodies and organisations which is dedicated to protecting, promoting and providing education on human rights in Peru. It rejects violence of any kind, is independent of the state and political parties and champions a democratic society. The National Coordinating Committee enjoys consultative status with the United Nations Economic and Social Council (ECOSOC) and has been accredited to participate in the activities of the Organization of American States (OAS).

GRUFIDES (Grupo de formación e intervención para el desarrollo sostenible) is a non-profit, non-governmental organisation that is active in the Cajamarca region. It intervenes on a macro-regional level within the sphere of human rights, sustainable development, equal rights and supportive economic development. The NGO supports a constitutional, democratic, fair and intercultural society.

The Grufides organisation realises its own aims and the aims of others on the basis of the principles of high esteem, services, pluralism and cultural, religious, political and ideological tolerance.

The Society for Threatened Peoples is an international human rights organisation that supports persecuted minorities and indigenous peoples. It documents human rights violations, informs and generates public awareness and represents the interests of those affected in their dealings with the authorities and decision makers. It supports local efforts for strengthening the human rights of minorities and indigenous peoples and works together nationally and internationally with organisations and persons pursuing similar aims. The Society for Threatened Peoples enjoys consultative status with the United Nations Economic and Social Council as well as with the Council of Europe.

Cover photo: A Toyota pickup with the licence number A7K-918 is registered at Minera Yanacocha. The picture shows how policemen are transported on the pickup of a private company.

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1 Introduction and General Summary

In the shadow of the BRIC economies (Brazil, Russia, India and China), Peru's economy has been thriving. Thanks to its rich natural resources, Peru has been achieving growth rates that traditional industrialised nations can only dream of. Spiralling commodity prices have helped to fill the nation's coffers, thanks in particular to high prices for the raw materials extracted by mining companies moving into areas far away from the industry's traditional locations in the Andes or the Amazon jungle.

This economic success story is not without its problems, including increasingly vocal protests by local communities against mining operations. The actions of business and government have put local people under increasing pressure, leading among other things to the criminalisation of entire communities. For example in May 2012 Óscar Mollohuanca, the mayor of Espinar in the Cuzco Region, was arrested without a warrant. Violent conflicts have spilled over into bloodshed: in 2012 five people died in protests against Yanacocha's Conga Mine operation and another three died in protests against Xstrata Tintaya, with dozens more injured in protests against Yanacocha in Cajamarca.

Destruction of wildlife and pollution of the environment have massively increased, impinging on the lives and livelihoods of indigenous peoples and local communities struggling to cope with the impact of Peru's domestic economic policies and institutional shortcomings – even under the recently-elected President Ollanta Humala, at one time the great hope of many c*ampesinos* and other Peruvians of indigenous origin. [1]

The increasing power of the mining corporations is demonstrated by agreements the companies have been concluding with Peru's National Police Force. These have come to light little by little since March 2013. To date the existence of at least thirteen such agreements has been revealed. These agreements have been kept secret for years.

For this report, Society for Threatened Peoples (STP) and the three Peruvian non-governmental organisations Grufides, Derechos Humanos sin Fronteras and Coordinadora Nacional de Derechos Humanos have examined in detail agreements concluded with the Peruvian National Police Force by the following seven mining corporations - Compañía Minera Antamina S.A., Compañía Minera Santa Luisa S.A., Gold Fields La Cima S.A., Minera Sulliden Shahuindo SAC, Minera Xstrata Tintaya S.A./ BHP Tintaya S.A., Compañia Minera Coimolache and Minera Yanacocha SRL. These agreements allow the mining companies to request a permanent police security presence and also to ask for rapid large-scale deployment of police units if protests are suspected. Under the provisions of the agreements the police conduct routine patrols aimed at "preventing, detecting and neutralising" threats. [2]

In order to ensure a rapid police response, in some cases the companies provide massive financial and logistical support. This means that both the companies and the police have a financial incentive

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[1] The term campesinos is used to describe the descendants of indigenous peoples who remain close to their origins, conserving their cultural and religious traditions and a close relationship with nature and their own living space. As part of the 1969 agrarian reform programme in Peru, there was a change of termino-logy: the pejorative term "*indio*", was replaced by what was considered a more respectful term, "*campesino*". (17.10.2013).

[2] Original Spanish: "Prevenir, detectar y neutralizar".

to act in the interests of the companies and to use force in response to protests rather than work with local people to find solutions to conflicts. The trust that local communities have in the state is undermined when the state's security forces choose to defend the interests of the mining companies against local people rather than protect citizens from being attacked. The most striking result has been the way in which companies have been making inroads into the state's monopoly on the use of force and undermining the commitment of the state to protect its citizens in accordance with the United Nations Guiding Principles on Business and Human Rights. Moreover, as a result of the contracts the state security forces have been accused of acting like private security officers. As a result of these agreements mining companies become jointly responsible for human rights violations committed by the security forces while they are working for these companies. The eighth agreement analysed in this report concluded by the Minera Afrodita mining company with the Peruvian army demonstrates that the problem also concerns military units.

Swiss-based commodity companies are among those involved in extractive activities in Peru. The Anglo-Swiss Glencore Xstrata corporation owns the Tintaya Mine as well as one-third of the Antamina mining company. Both of these mine operators have signed agreements with the police. In addition approximately half the gold produced in Peru is processed in Switzerland, including a large portion of the gold produced by the Peruvian mining company Minera Yanacocha, another company that has concluded a secret agreement with the police.

For the Peruvian government, the extraction of raw materials is of strategic importance. Therefore, the government tries to grant licences without the consent of the affected population who suffers from the damages caused to the environment. This aggravates the existing and foments new social conflicts, poses new problems for the government and endangers the investments of the mining companies.

In 2000 the increasing number of violent conflicts worldwide associated with the exploitation of natural resources led four countries to create the *Voluntary Principles on Security and Human Rights* Initiative[3], aimed at preventing future conflicts of this kind. In March 2013 Switzerland assumed the Presidency of the Voluntary Principles for one year. This report makes it clear that voluntary arrangements are inadequate. The bloody conflicts involving Minera Yanacocha, which has signed up to the Voluntary Principles, are evidence of how the Principles have failed to prevent conflict. The example of Antamina, described in greater detail below, shows how easily the Principles can be abused by the mining companies. In their current form the Principles risk becoming counterproductive if they lead to increased repression instead of dialogue with the local people affected.

The spiral of increasing human rights violations and violent repression linked to the exploitation of natural resources must be halted. This will require compulsory measures on the part of the international community and in particular states producing and consuming raw materials and all companies engaged in extracting and processing activities. The aim of these measures must be to ensure respect for human rights, in particular the right of communities to have a say in decision-making processes that affect them, and reduced environmental impact.

The authors of this report are calling for the following actions to be taken:

- **by the government of Peru:**
  - the publication of all agreements concluded between mining companies and the Peruvian

3 Voluntary Principles on Security and Human Rights, www.voluntaryprinciples.org (13.11.2013).

National Police Force and Army as well as the initiation of a process to cancel all such agreements;

- participation in the Voluntary Principles Initiative and the adoption of political measures aimed at ensuring the peaceful resolution of disputes with the involvement of all groups of people concerned;
- respect for the rights of local people, in particular their right to free, prior and informed consent, and guaranteed protection as stipulated by the Guiding Principles on Business and Human Rights (State Duty to Protect); [4]
- the revocation of laws that criminalise peaceful protest and the abandonment of judicial proceedings against regional bodies and the leaders of social and environmental groups;
- the creation of a Truth Commission to review human rights violations linked to natural resources exploitation, as has been called for in the National Congress.[5]

- **by mine operators:**
  - the immediate cancellation of all agreements concluded with the Peruvian National Police Force and Army;
  - the initiation of negotiations in good faith with all community groups subject to respect for the right to free, prior and informed consent (FPIC);
  - the formulation of corporate policy consistent with the Guiding Principles on Business and Human Rights (Corporate Responsibility to Respect) which prioritise respect for human rights ahead of economic interests.
- **by the Swiss government:**
  - the establishment of a binding duty of care (due diligence) for multinational corporations and the creation of a framework of legislation which allows responsible persons at parent company headquarters in Switzerland to be held legally accountable;
  - the initiation of a reform process during the Presidency of the Voluntary Principles on Security and Human Rights and as a participant in the Voluntary Principles in accordance with the demands set out in this report.
- **by consumers of raw materials:**
  - the formulation of raw materials procurement policies that require suppliers to guarantee production with the consent of the local population, respectful of human rights, satisfying strict environmental and social standards and supported by a reliable audit system/ (Chain of Custody).
  - by the Voluntary Principles:
  - a ban on direct funding of security forces by mining companies, enforcement of participant companies' commitment to respect the Principles, in particular peaceful conflict resolution, improved standards and the establishment of robust reporting and monitoring supported by

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[4] Guiding Principles on Business and Human Rights, http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf

[5] Congress of the Republic of Peru, www.congreso.gob.pe/congresista/2006/wcabrera/_mociones.asp?lg=20061&cg=05066&CurPage=2 (24.08.2006).

sanctions mechanisms, with the involvement of civil society organisations and the population affected;

- steps to make the Voluntary Principles compulsory.

- **by the United Nations:**
  - initiatives aimed at the compulsory implementation of the Guiding Principles on Business and Human Rights based on the State Duty to Protect Human Rights, the Corporate Responsibility to Respect Human Rights and access for victims of human rights violations to administrative grievance and compensation mechanisms (Access to Remedy).

2 The exploitation of mineral resources in Peru

In the early nineteen-nineties, as part of a World Bank and International Monetary Fund Structural Adjustment Programme, Peru's former President Alberto Fujimori adopted a neoliberal approach to economic development which included support for the commercial exploitation of the country's rich mineral resources. Today raw materials account for over 60% of all export earnings. Peru is the world's largest producer of silver, the second largest producer of copper and the 6th-ranking producer of gold. In 2006 exports of copper, gold, silver, zinc, lead, tin and iron ore were valued at nearly US$ 15 billion, a more than tenfold increase in thirteen years. In 2012 Peru exported mined gold to the value of over US$ 9.5 billion, including more than US$ 5 billion worth to Switzerland[6]. Gold was by far Peru's most valuable export.

Commercial exploitation of Peru's natural resources has boosted export earnings and gross national product. However, by 2012 concessions had been awarded for the extraction of natural resources across 26 million hectares of land, almost 20% of the country's entire land surface area.[7] In June 2012 licences awarded to mine operators In the Cajamarca region, for example, accounted for 48.5% of the land surface area.[8] In the Cuzco Region the figure was 21.3%[9] and in the Ancash Region 53.3%[10].

The area included in these enormous concessions is also home to a large portion of the country's rural population, including *campesinos* of indigenous origin and people who have moved here from other parts of the country. Their lives and livelihoods depend on a healthy environment and access to land and water, and the competing interests of the local inhabitants and the mining companies have led to conflict arising. If local people resist the activities of the mining companies, the companies call in the assistance of the state security forces to provide protection for their mining operations. Often the outcome is brutal and disproportionately harsh treatment of the protesters by the security forces, sometimes including the use of armed force. The *Defensoría del Pueblo*, an independent Peruvian Human Rights Ombudsman, recorded 196 deaths and another 2,369 persons injured in disputes over natural resources in the five years from 2006 to 2011 alone[11]. In September

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[6] Peru-Switzerland Bilateral Trade Report, II, 2013.

[7] http://www.cooperaccion.org.pe/cooperaccion-informa/cooperaccion-presenta-su-qtercer-informe-nacional-de-concesiones-mineras-en-el-peru-2012q.html (27.9.2013).

[8] http://www.cooperaccion.org.pe/images/pdf/JUNIO2012/cajamarca2.pdf (07.10.2013).

[9] http://www.cooperaccion.org.pe/images/pdf/JUNIO2012/cusco2.pdf (07.10.2013).

[10] http://www.cooperaccion.org.pe/images/pdf/JUNIO2012/ancash2.pdf (07.10.2013).

[11] "We drew attention at the time to the 196 deaths and 2,369 civilians and police injured recorded between

2013 the *Defensoría* reported 175 active disputes, 107 linked to mineral resources and 19 to fossil fuels.[12] In only around half of these disputes had the government instigated a process of dialogue.[13]



Photo 2: Detained and tortured protesters at the mine Majaz in Plura in 2005 (© National coordination of Human Rights)

In the nineteen-nineties the companies were welcomed by local communities convinced by promises of development and prosperity. Today many local people are disillusioned. Instead of increased prosperity what they have experienced is extensive damage to the countryside, a lack of respect for their traditions, expropriation with inadequate compensation, reduced quantities of water available for agricultural use and the poisoning of drinking water supplies. Most importantly, the companies have failed to respect the rights of local people and neglected to secure their consent for mining projects.

January 2006 and December 2011"; Source: Decimosexto Informe Anual de la Defensoría del Pueblo, Enero-Diciembre 2012 [16th Annual Report of the Office of the Ombudsman, January- December 2012], page 79.

[12] In Spanish: "hydrocarburos ", meaning hydrocarbons.

[13] *Defensoría del Pueblo, Reporte Mensual de Conflictos Sociales Nº 115, septiembre 2013*,[Monthly Social Conflicts Report of the Office of the Ombudsman No. 115, September 2013], http://www.defensoria.gob.pe/temas.php?des=3#r (30.10.2013).

3 Agreements concluded by mining companies with the National Police Force in Peru

3.1 Legal basis of the agreements

By Government Decree, the police are allowed to provide extraordinary additional security services, as detailed in agreements concluded between the National Police Force and mining corporations. This means that in addition to their regular policing duties, units of the Peruvian National Police Force are authorised to provide special services for the protection of public and private property and investments.

The Regulations[14] implementing the Decree[15] of 11 July 2009 establish the rules and procedures that govern the provision of extraordinary additional services by the Police. Two types of extraordinary additional services, *institutional* and *individualised*, may be provided.[16]

Institutional extraordinary additional services require the conclusion of an agreement between the Director-General of the National Police Force and the person or entity requesting protection. As a rule ordinary police officers are assigned to carry out these duties. The Regulations subclassify institutional extraordinary additional services as either *permanent* or *occasional*. Permanent institutional extraordinary additional services are provided for a specified period of time. Occasional services, on the other hand, are provided for a period of between one and eight hours and can be requested at very short notice. Additional police units can be deployed to deal with major incidents.

Individualised extraordinary additional services, on the other hand, are provided by police officers during their off-duty hours or holidays. These services do not require the conclusion of any formal agreement with the National Police Force; instead a direct arrangement is made between the police officer providing the service and the individual or corporate entity requesting it.

Payment for the provision of extraordinary additional services is made in two ways. The police officer providing the service receives a payment directly from the beneficiary, usually a mining company. The amount is specified in a supplementary agreement. The police officer receives this payment in addition to their normal salary; it is not considered part of the normal salary, does not count towards pension entitlement and nor is it used to calculate social security contributions.

In the case of institutional extraordinary services a payment is also made to the police unit. The amount is specified in a second supplement and is intended to cover the logistical and administrative costs incurred by the National Police Force in providing the extraordinary additional services.

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[14] Reglamento para la prestación de servicios extraordinarios complementarios a la función policial [Regulations governing the provision of extraordinary services additional to normal police duties].

[15] Decreto Supremo que aprueba el reglamento de prestación de servicios extraordinarios complementarios a la función policial, N° 004-2009-IN [*Supreme Decree 004-2009-IN approving the Regulations governing the provision of extraordinary services additional to normal police duties*].

[16] Table summarising the various extraordinary additional services, http://www.estudiocontablerios.com/servicio_de_vigilancia_policial.html (24.09.2013).

3.2 Content of Agreements

On 12 April 2013 the Peruvian journal *Hildebrandt en sus trece* published an article under the heading *Police Mercenaries* in which it accused the Peruvian National Police Force of having concluded secret agreements with at least 13 mining companies[17]. The authors of this report have looked at seven agreements concluded with the National Police Force and one with the Army and the results of our analysis are appended to this report. With the exception of the Tintaya agreement all were concluded in 2009 or subsequently, cover a period of between one and two years and are renewable. The agreements with Minera Yanacocha, Sulliden Shahuindo, Coimolache and Gold Fields La Cima contain an explicit secrecy clause imposing an obligation of confidentiality on the Police Force and on police personnel. The other agreements do not contain any explicit secrecy requirements but with the exception of the Santa Luisa agreement they have been kept confidential.

The authors have not seen the full agreement between the Peruvian National Police Force and the former mine owner BHP Tintaya S.A.[18], but only the additional clauses specifying the period of renewal and the payment due[19]. The agreement with BHP Tintaya S.A. came into force on 1 March 2000, some considerable time before the implementing Regulations were adopted into law. The additional clauses reveal that the agreement was renewed 17 times until 31 May 2006 before the sale of the mine to Xstrata.

Based on the correspondence of 17 October 2011 between the Peruvian Ministry of the Interior and the non-governmental organisation Cooperacción, which was enclosed with the additional clauses, the authors of this report conclude that a contract between Xstrata Tintaya and the Peruvian National Police Force also existed after May 2006. Furthermore, in June 2012, the National Human Rights Coordinating Committee asked for information about a possible contractual relationship. The Peruvian Ministry of the Interior confirmed: "(…) the mining company Xstrata Tintaya S.A. and the Peruvian National Police Force signed on 16 May 2011 a contract about the provision of police services complementary to the police functions, (…) that the services by the National Police Force constitute individualised services and that the contract, through mutual signing, currently is in force (…)".

The object of the agreements is to increase security and protect mine staff, assets and installations against criminal actions and attacks. The aim is to "prevent, detect and neutralise" threats by means of precautionary measures, surveillance and patrols.[20] "Threats" may be understood as signifying, for example, criminal actions, assaults, acts of sabotage, terrorism and other types of hazard. In the agreement with Santa Luisa acts of a threat-like nature are specified that include civil war, invasion, insurgency, strikes, internal unrest, civil disturbances, rebellion, vandalism and other criminal and terrorist actions. The National Police Force assumes responsibility for planning, implementing and

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[17] Weekly journal *Hildebrandt en sus trece*, Year 3, No. 150, 12-18 April 2013, Article headed *Policía Mercenaria*.

[18] *Convenio sobre Prestación de Servicios de Vigilancia y Seguridad Regular* [Agreement concerning the Provision of Surveillance and Routine Security Services]

[19] *Cláusulas Adicionales al Convenio sobre prestación de servicios de vigilancia y seguridad regular - Policía Nacional del Perú*. [Additional Clause of the Agreement concerning the Provision of Surveillance and Routine Security Services], Supplementary Clause, Clause 4. Additional Clause of the Agreement concerning the Provision of Surveillance, Routine Security and Inspection and Monitoring of Chemical Substances Approved for Use at the Tintaya Mining Camp, National Police Force of Peru.

[20] In the original Spanish: "*Prevenir, detectar y neutralizar*".

supervising the provision of security services within the sphere of interest of the mining company and makes staff available accordingly. Police officers work an eight hour day and during their shift are required to remain on site at all times wearing uniform and bearing arms. Some individual agreements also stipulate that police units must have relevant experience of controlling crowds and that in an emergency or in exceptional circumstances additional police units can also be deployed. In the agreements the mining companies require a permanent presence of between ten and twenty police officers; most of the companies can request larger scale deployment of police officers at any time. BHP Billiton Tintaya S.A., now Glencore Xstrata, paid / pays part of the cost of two undercover agents.

The mining companies will usually provide the National Police Force with vehicles and other transport, and pay their costs and accommodation in addition to providing insurance cover against injury or death. In specific cases the companies will provide police units with communications equipment, legal advice and items of equipment for monitoring and patrolling. They even contribute to the repair and maintenance of firearms and replacements for weapons lost during operations.

Each police officer receives a direct financial payment from the firm. Short-term operations, in particular individualised extraordinary services, may be arranged directly between the company and the police officers. In addition there is provision for payments to be made to the police unit to cover their logistical and administrative costs.

In addition to these agreements concluded with the National Police Force, the mining company Compañía Minera Afrodita SAC has concluded an agreement, described as a “Joint Partnership Agreement”, with a Peruvian military unit. This was signed on 3 May 2010 for a period of two years and renewable automatically. The parties to the agreement agree to provide one another with mutual support and assistance. The army is responsible for the transport of personnel to the concession area, security and communications. The company assumes responsibility for the medical care of the military personnel, the supply of power to the area of operations and the transport of military personnel to the army encampment.[21] The firm also makes an annual payment of up to 80,000 soles[22] for the purchase of equipment required by the army. According to the Servindi news service the agreement between Minera Afrodita and the army is unconstitutional because it goes outside the bounds of the constitutionally defined duties of the armed forces. Servindi also notes that this is not a unique agreement but one of an increasing number in Peru.[23]

3.3 Conflicts with companies that have concluded agreements

During the period while these contractual agreements between mining companies and the National Police Force have been in existence, there have been a number of disputes between companies and local people. The photograph below shows a bus owned by the Yanacocha gold mine used to transport police officers to the place where a protest has been organised.

Disputes in which a number of mining companies who have agreements with the National Police Force are involved are described in more detail below.

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[21] The agreement does not make it clear whether it is military personnel or the company's employees who are referred to here. The authors of the report assume the reference to be to military personnel.

[22] One Peruvian sol is equivalent to 33 Swiss centimes (15.11.2013).

[23] http://servindi.org/actualidad/78388 (30.10.2013).



Photo 2: Yanacocha bus used to transport police officers (© Grufides)

3.3.1 Conflicts with Minera Yanacocha

For years Minera Yanacocha has repeatedly been a focus of violent disputes. The original mine workings were exhausted long ago and Minera Yanacocha has been looking for other reserves to exploit in the neighbourhood. In 1993 the company was anxious to begin work on an expansion project at Monte Quilish, an important water supply source and for many *campesinos* a sacred place. The Cajamarca Provincial government declared the mountain a protected area and in the face of vehement opposition from the local community the project was abandoned in 2004.

Minera Yanacocha went on to develop proposals for the new Conga project. The local people opposed these proposals too, partly because they would lose four mountain lakes that supply water to the region. The region is already short of water and shortages are likely to intensify.

In November 2011, fierce clashes broke out between the community and the police. Peru's President Ollanta Humala declared a temporary state of emergency in the region and sent in special police and army units. Three communities in the areas of Celendín, Bambamarca and Cajamarca were attacked. In February 2012 tens of thousands of *campesinos* came together in opposition to the proposals and a large-scale rally was organised, the "*Gran Marcha Nacional del Agua*" or Great National March for Water. At the same time the Peruvian Parliament issued two draft bills protecting important water resource areas against the impact of extractive activities and dealt with legislations to prohibit the use of cyanide and mercury in mining.

From May 2012 onward there were renewed calls for indefinite strike action. Violent clashes took place between police and demonstrators. Independent journalists were attacked, film recordings of police violence were confiscated and well-known human rights activists were arrested.[24] In protests in July 2012 five individuals were killed and several dozen more injured[25]. There were many arrests and lots of people were detained. Marco Arana, the founder of Grufides, was arbitrarily arrested by

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[24] http://www.ideeleradio.pe/web/wNoti.php?idN=4812&tip=red (13.11.2013).

[25] http://www.conflictosmineros.net/contenidos/19/10417 (15.10.2013).

30 police officers while attending the protest and tortured at the police station.[26] Ollanta Humala reimposed the state of emergency for two months.[27] In a letter to the Peruvian President the human rights organisation Human Rights Watch claimed that the demonstrators had died as a result of the use of excessive force and called for an independent enquiry. [28]

There is no dialogue at present between the government, the mining company and the local population concerning the conflict over the Conga expansion project according to the Peruvian Ombudsman.[29] Various representatives of civil society organisations and local communities in the provinces of Cajamarca, Celendín and Hualgayoc are calling for the Conga Project to be abandoned. The situation locally remains unsettled: campaigners against the Conga expansion, including Grufides staff, have received menacing telephone calls and death threats and been the targets of espionage and sabotage attempts.[30.] During the past year and throughout the summer of 2013 the protests have continued.[31] [32] In addition the Conga Lagoons, four lakes facing destruction as a direct result of the mining activities, are being watched around the clock by *campesino* groups who are referred to as the "Guardians of the Lagoons" and enjoy very wide support. Employees of Minera Yanacocha, who have benefited from the relatively limited number of employment opportunities created, carried out attacks on the *campesinos* in September and October 2013 carrying firearms and threatening to use them.[33] This has led to internal tensions within the local communities, and made the process of finding a solution to the conflict more difficult; it has also been exploited by the companies and the government for their own purposes.

The President of the Cajamarca regional government, Gregorio Santos, accuses the national government of handing over the region's water reserves to Minera Yanacocha instead of taking responsibility for them itself. According to Gregorio Santos, the company is hoping that next year's local government elections will result in the election of a President who will make things easier for the Conga Project. Minera Yanacocha and the national government have been putting great pressure on Gregorio Santos as a result of his criticisms. In March 2013 the National Human Rights Coordinating Committee in Peru referred Peru to the Inter-American Human Rights Commission in Washington because of the criminalisation of protest actions.[34]

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[26] http://idl-reporteros.pe/2012/07/05/columna-de-reporteros-86/ (13.11.2013).

[27] La Republica: «*El Gobierno declaró Estado de Emergencia en tres provincias de Cajamarca*» ["The Government declares a state of emergency in three provinces in Cajamarca"], http://www.larepublica.pe/04-07-2012/el-gobierno-declaro-estado-de-emergencia-en-tres-provincias-de-cajamarca (28.09.13); http://www.conflictosmineros.net/contenidos/19/10417 (15.10.2013).

[28] http://www.hrw.org/news/2012/07/06/peru-investigate-killings-mining-protests

[29] *Reporte Mensual de Conflictos Sociales N° 115, septiembre 2013*, page 46.

[30] http://www.amnistia.org.pe/defensoras-y-defensores-de-derechos-humanos-sufren-cada-vez-mas-ataques-en-america/ ; http://celendinlibre.wordpress.com/2013/03/27/alerta-hostigamiento-de-policia-nacional-de-cajamarca-contra-defensora-de-ddhh/ (13.11.2013).

[31] http://www.rpp.com.pe/2013-08-20-cajamarca-ronderos-consideran-como-victoria-retiro-de-tranquera-noticia_623861.html (30.09.2013).

[32] http://www.rpp.com.pe/2013-08-30-detienen-a-ronderos-que-intentan-bloquear-otra-vez-via-a-bambamarca-noticia_626710.html (30.09.2013).

[33] http://grufidesinfo.blogspot.com/2013/10/peru-amenazas-contra-guardianes-de-las.html (14.11.2013). http://caballeroredverde.blogspot.com/2013/09/paramilitares-atacan-guardianes-de-las.html (14.11.2013).

[34] http://derechoshumanos.pe/2013/09/informe-vulneraciones-de-derechos-humanos-en-contextos-de-

Grufides has been the victim of espionage operations because of its criticism of the mining interests. The documentary "*Operación Diablo*" ["Operation Devil"] provides clear evidence of this. [35]

3.3.2 Conflicts with Xstrata Tintaya

In 2006 the Swiss-based commodity firm Xstrata bought the Tintaya mine from BHP Billiton. The mine is currently engaged in two expansion projects, the Antapaccay Mine, which began operations in November 2012 and is intended to replace the Tintaya Mine, which is due to close in 2014 after almost 30 years' operation. The Las Bambas mine project is due to open in 2015 but is currently the subject of negotiations with a potential purchaser.[36]

In recent years a succession of disputes have arisen between Xstrata and the local population. In 2006 tension arose because Xstrata had been failing to implement fully the requirements of the "*Convenio Marco*", or General Framework Agreement.[37] This framework agreement was concluded in 2003 between the local population and the then owner of the mine, BHP Billiton.[38]

In September 2011, a survey of the Organisation "Vicariate for Solidarity of the Prelature of Sicuani" found that soils and rivers in 39 places in the province of Espinar were contaminated with heavy metals. The survey could not determine beyond reasonable doubt the causes of the contamination, but it confirmed the problem of contamination, which the local population had been complaining about for quite some time.[39] Local people had been calling repeatedly for Xstrata to employ more local staff and businesses.

On 24 November 2011 the mayor of Espinar denunciated severe environmental problems, and the Organisation "Frente Unico de Defensa de los Intereses de Espinar" filed a legal complaint against Xstrata Tintaya for polluting the environment.[40] On 5 August 2012 the residents of Alto and Bajo Huancané filed another suit against Xstrata accusing the company of responsibility for the death of over 2000 head of livestock.[41]

On 21 May 2012, the conflict surrounding the Tintaya Mine escalated, as the complaints of the population hadn't been taken seriously and as the company wasn't prepared to discuss a new framework agreement. The government declared the state of emergency and on 21 May, it deployed some 2000 police officers to protect Xstrata Tintaya's mining operations from the demonstrators. Over the course of the next few days serious clashes took place and police officers used firearms

protesta-social/ (13.11.2013)

35 http://www.youtube.com/watch?v=tWPE0I2KesE

36 http://www.multiwatch.ch/de/p97001406.html (12.11.2013); http://www.xstratacopperperu.pe/ES/Operaciones/TintayaAntapaccay/Paginas/NuestraHistoria.aspx (12.11.2013).

37 *Convenio Marco por el desarrollo de la provincia de Espinar y BHP Billiton Tintaya S.A.* [General Framework Agreement for Development between the Province of Espinar and BHP Billiton Tintaya S.A.]

38 http://www.multiwatch.ch/de/p97001406.html (01.10.2013).

39 http://www.multiwatch.ch/de/p97000957.html (01.10.2013).

40 http://www.multiwatch.ch/de/f97000310.html (01.10.2013).

41 http://www.multiwatch.ch/de/p97001208.html (01.10.2013); http://elcomercio.pe/actualidad/1454842/noticia-espinar-que-siguen-muriendo-animales (01.10.2013).

and tear gas against the demonstrators.[42] Three protesters were killed and over 100 civilians and police officers injured.[43] The National Police Force made 26 arrests and detained prisoners on mine premises. There is documentary evidence that the civilians who were arrested were physically and psychologically mistreated and tortured while they were being detained.[44] Therefore, the Swiss non-governmental organisation Multiwatch accuses the company of complicity.[45] In Switzerland, several organisations signed an appeal for a binding corporate responsibility of Xstrata.[46]

On 30 May 2012 Óscar Mollohuanca, the mayor of Espinar, was arrested without a warrant after he had criticised the cooperation between Xstrata Tintaya and the government.[47] The judge sentenced him to five months' preventive detention so that his alleged involvement in protest activities in Espinar could be investigated. According to the lawyer Carlos Rivera, from the NGO *Instituto de Defensa Legal* (IDL) [Legal Defence Institute], Mollohuanca's arrest was unjustified and unlawful. On 12 June Mollohuanca was released.[48] However, in August 2013 charges were brought against him and other activists and they could face ten years' imprisonment, provoking an angry reaction in the Espinar area. The State Prosecutor accused them, among other things, of being responsible for offences against public safety and rioting.[49]

A total of 45 people were charged in connection with the protests in Espinar. In October 2013 *Derechos Humanos Sin Fronteras* (*DHSF*) published a report on the May 2012 clashes in Espinar which argued that the inquiry should be taking place in the province of Espinar and not in Ica. The change of location to Ica has had serious consequences for many of those charged because of the great distance from Espinar to Ica and the difficult financial situation facing many of them. It is much more difficult for them to assert their rights in Ica. *DHSF* was also critical of the fact that the current inquiry focuses only on the protest movement and no inquiry is being carried out into who was responsible for the human rights violations.[50]

According to the *DHSF* report, the causes of the conflict in Espinar are derived on the one hand from the anxieties of local people concerning their environment and living space, the impact of the new Antapaccay mining project on their drinking water supply and the effects of the construction of a pipeline and a reservoir and dam. The protests have also revealed the existence of widespread social discontent over the activities of Xstrata Tintaya, accompanied by a weakening of social

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[42] *Informe explicativo sobre el escenario actual en Espinar* [Report into the current situation in Espinar], *Derechos Humanos Sin Fronteras* (*DHSF*), 15.10.2013, page 3.

[43] http://elcomercio.pe/actualidad/1460226/noticia-confirman-muerte-manifestante-herido-durante-protestas-espinar (15.10.2013).

[44] *Informe explicativo sobre el escenario actual en Espinar, Derechos Humanos Sin Fronteras* (*DHSF*), 15.10.2013, pages 3-4.

[45] http://www.multiwatch.ch/cm_data/Dossier_XstrataTintaya_Mai2013.pdf

[46] Aufruf für eine verbindliche Rechenschaftspflicht von Xstrata Plc. Angesichts der Menschenrechtsverletzungen im eskalierten Bergbaukonflikt in Expinar, Peru, 7.9.2012; http://www.multiwatch.ch/cm_data/Aufruf_Xstrata_7.9.2012.pdf

[47] http://www.multiwatch.ch/de/p97001127.html (01.10.2013).

[48] http://www.comunicacionesaliadas.org/articles.asp?art=6678 (08.10.2013).

[49] http://www.cooperaccion.org.pe/comentario-institucional/espinar-la-presion-viene-de-varios-frentes.html (08.10.2013).

[50] *Informe explicativo sobre el escenario actual en Espinar, Derechos Humanos Sin Fronteras* (*DHSF*), 15.10.2013, pages 5-6.

cohesion and the creation of divisions within the community.[51]



Photo 3: Protests against Xstrata Tintaya mine on 24 Mai 2012 in Espinar, Cusco. (© National Human Rights Coordinating Committee)

According to the Office of the Peruvian Ombudsman the people of Espinar are anxious to obtain the mining corporation's support for socioeconomic development.[52] The parties have begun discussions and at the end of August 2013 a new agreement was signed between Xstrata and the local people. Among other things this agreement includes necessary measures for the region's sustainable development, an environmental action plan, proposals for regional investment by the corporation and ongoing monitoring of the health effects on local people of heavy metals in their blood and urine.[53] *Derechos Humanos Sin Fronteras* considers that a considerable amount of work has still to be done before the human rights of people in Espinar are guaranteed, because the discussions have so far failed to resolve all the causes of conflict in Espinar and social tensions remain.[54] For this reason the Office of the Ombudsman has issued a warning to Tintaya. Various local groups and organisations in Espinar have expressed concern over the social and environmental impact of the installations linking Xstrata's mines at Las Bambas, Tintaya and Antapaccay.[55]

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[51] *Informe explicativo sobre el escenario actual en Espinar, Derechos Humanos Sin Fronteras* (*DHSF*), 15.10.2013, pages 1-2.

[52] *Reporte Mensual de Conflictos Sociales N° 115, septiembre 2013*, page 50.

[53] http://www.andina.com.pe/Espanol/noticia-mesa-dialogo-espinar-aprueba-informe-final-472319.aspx#.Uib4iX9YVp4 (01.10.2013).

[54] *Informe explicativo sobre el escenario actual en Espinar, Derechos Humanos Sin Fronteras* (*DHSF*), 15.10.2013, page 6.

[55] *Reporte Mensual de Conflictos Sociales N° 115, septiembre 2013*, page 110.

3.3.3 Conflicts with Antamina

The Swiss commodity trading corporation Glencore Xstrata owns a 33.75% share in the mining company Compañía Minera Antamina S.A. The other shareholders are BHP Billiton (33.75%), Teck (22.5%) and Mitsubishi Corporation (10%).[56]

The agreement concluded by Antamina with the Peruvian National Police Force states that Antamina is a party to the Voluntary Principles on Security and Human Rights and the company should therefore respect and protect constitutionally enshrined human rights. Antamina has boasted on a number of occasions of being a participant in the Voluntary Principles.[57] However, that is not true according to the Principles Secretariat. Only BHP Billiton has agreed to implement the Voluntary Principles. Antamina's claim to be a participant disappeared from the company's website only after STP contacted the Secretariat of the Voluntary Principles.[58]

According to the Office of the Peruvian Ombudsman, in September 2013 there are seven disputes currently involving Antamina. There are dialogues in progress in all seven of these disputes, but in three of them the Office of the Ombudsman recorded no new dialogue activity during the month of September.[59]

The conflicts with Antamina are predominantly linked to environmental issues. Various representatives of urban and rural communities and groups of fishermen have accused the mining corporation of failing to fulfil promises relating to social responsibility, ground water contamination, lead and other heavy metals pollution and irregularities concerning land rights. They are demanding that Antamina provide concrete support for local development projects and stick to agreements.

Meetings have taken place between community representatives, Antamina and national government bodies including the Peruvian Environment Ministry which have discussed, among other things, how to ensure that the company fulfils its undertakings.[60] In May 2012 representatives from the town of Chipta were mistreated by a special police unit after protesting against the loss of their two only water sources. Antamina security personnel had hired the special unit to force the Chiptans to resettle elsewhere so that Antamina could proceed to carry out blasting operations.[61]

In an other incident on 25 July 2012 an Antamina pipeline in the municipality of Santa Rosa in Cajacay district exploded. 45 tonnes of copper concentrate slurry spilled out and more than 200 people showed symptoms of poisoning; some of the concentrate has still not disappeared from local forests and rivers.[62] The authorities imposed a fine of US$ 80,000 on Antamina.[63] Three studies carried out by the National Institute of Health found that out of 919 individuals studied in the affected area in Santa Rosa and surroundings 285 had elevated levels of copper, lead and arsenic in their

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[56] http://www.antamina.com/en/index.php (29.08.2013).

[57] e.g. http://www.huaraznoticias.com/mineria/nota06396 (13.11.2013).

[58] e-mail correspondence between STP and the Secretariat of the Voluntary Principles on Security and Human Rights on 12, 17 and 18 September 2013.

[59] *Reporte Mensual de Conflictos Sociales N° 115, septiembre 2013*, pages 19-26.

[60] *Reporte Mensual de Conflictos Sociales N° 115, septiembre 2013*, pages 19-26.

[61] http://veronikamendoza.blogspot.ch/2012/05/comunidad-de-chipta-denuncia-abusos-de.html (26.09.2013); http://servindi.org/actualidad/64245 (26.09.2013).

[62] http://www.multiwatch.ch/de/p97001207.html (26.09.2013).

[63] http://www.multiwatch.ch/de/p97001447.html (26.09.2013).

blood. Antamina denies any link with the pipeline explosion and regards the high copper levels in the area as within acceptable limits.[64] On 4 September 2013 the people of Cajacay called an indefinite strike against Antamina in support of their demand for the families affected by the pipeline explosion to be compensated.[65] Roads were blocked with barricades which the police subsequently removed.[66]

3.3.4 Conflicts with Sulliden Shahuindo

Although Minera Sulliden Shahuindo planned to start its mining projects only in 2014, they had already undersigned a secret contract with the National Police Force in 2009. Several conflicts had already arisen and there were protests against the mining project in the Cachachi district.

In March 2013 Sulliden Shahuindo called for a public debate in respect of the village community of Moyán Alto in Cajabamba. More than 300 police officers were provided for surveillance. Simultaneously more than 250 village inhabitants protested against the event near the Chuquibamba Bridge and thus showed that they would not accept the legitimacy of the hearing.[67] On 11 March 2013 the village inhabitants who were against the mine project were driven away by the police force, with eight persons suffering injury. According to the inhabitants the police force used firearms. Farmers also defended themselves against the project, because they feared pollution in the Condebamba Valley.[68]

As the ombudsman office report showed, in September 2013 a conflict without dialogue took place in connection with Sulliden Shahuindo.[69] In August 2013 the inhabitants undertook a 5-day protest march against Sulliden Shahuindo's mining activities.[70]

3.3.5 Conflicts with Gold Fields La Cima

The Gold Fields La Cima mining company carries out the Cerro Corona mining project in the district of Hualgayoc. Between 2006 and 2009 three accidents occurred during the transportation of dangerous substances undertaken by Gold Fields. In each case a great deal of copper concentrate was spilled, which polluted rivers in the area and which have had damaging effects on the environment and the inhabitants. During a third accident, two persons were injured in a collision with another vehicle.[71] In August 2009 the inhabitants of Hualgayoc launched a protest against the mining company lasting several days. This resulted in confrontations between demonstrators and

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[64] http://www.larepublica.pe/31-07-2013/285-pobladores-ancashinos-de-cajacay-tienen-metales-en-la-sangre-y-culpan-a-antamina (26.09.2013).

[65] http://www.larepublica.pe/04-09-2013/huaraz-pobladores-de-cajacay-acatan-paro-indefinido-contra-antamina (26.09.2013).

[66] http://www.multiwatch.ch/de/p97001531.html (26.09.2013).

[67] http://www.conflictosmineroseenet/contenidos/19-peru/12378-audiencia-de-minera-sulliden-shahuindo-se-desarrolla-en-medio-de-protestas (02.10.2013).

[68] http://celendinlibre.wordpresseecom/2013/04/03/cajabamba-shahuindo-y-la-mineria-informal-conflicto-visible-o-invisible/ (02.10.2013).

[69] Reporte Mensual de Conflictos Sociales N° 115, septiembre 2013, p. 46.

[70] Reporte Mensual de Conflictos Sociales N° 114, agosto 2013, p. 4.

[71] http://www.conflictosmineroseenet/contenidos/19-peru/4632-4632 (03.10.2013).

police officers, shots were fired and teargas was used; two inhabitants and a police officer were injured. There were subsequently negotiations between Gold Fields and the village inhabitants. They settled on a five-point agreement, including the themes of electricity supply, water supply and the environment.[72] According to the ombudsman office report of September 2013, the village inhabitants demanded that Gold Fields comply with the agreements.[73] Protests also took place in the current year: due to low wages more than 100 contract-partner mine workers went on strike in March 2013.[74] On 29 August a strike was organised against various mining companies, including Gold Fields La Cima.[75]

3.3.6 Conflicts with Santa Luisa

The Compañía Minera Santa Luisa S.A. mining company runs the Huanzalá mine in the Ancash region. The company was not previously involved in conflict with the local populations, but with work conflicts. Following a labour dispute, which had been going on since March 2012, workers from the Huanzalá mine commenced a 19-day strike in May of the same year. On 18 June 2012 the Huanzalá mine workers came to an agreement with Santa Luisa.[76] On 6 April 2013 a worker died following an accident in the mine. On 26 September 2013 the mine workers began an indefinite strike against Santa Luisa.[77]

3.4 Contract problems

There are several reasons why it is very problematic when private raw-material companies undersign contracts with public security services. It is the duty of the police force to enforce the legislation and to guarantee internal security. Part of this is the protection of its citizens. But if the police is in a mercenary-like relationship with one of the conflict parties, its neutrality isn't warranted anymore.

A conflict of interest arises for the police officers deployed. The payments received from the companies give the government security forces an incentive to act in these companies' interests only. As a result, protests by the local population are quickly suppressed through the use of excessive force and no more dialogue is sought. Thus the state's monopoly on the use of force is undermined and the population's trust in the government is eroded, because the latter fails to meet its obligation to protect its own citizens. The companies therefore share the responsibility for human rights violations committed by the security forces.

Contracts drawn up in this way between companies and public security services are in strong contradiction of both the Guiding Principles on Business and Human Rights (see Chapter 4.2) and the Voluntary Principles on Security and Human Rights (see Chapter 4.3). According to the Guiding

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72 http://www.conflictosmineroseenet/contenidos/19-peru/4940-4940 (03.10.2013).

73 Reporte Mensual de Conflictos Sociales N° 115, septiembre 2013, S. 47.

74 http://www.larepublica.pe/23-03-2013/cajamarca-mineros-protestan-contra-gold-fields-por-pago-de-utilidades (03.10.2013).

75 http://www.larepublica.pe/07-08-2013/benavides-paro-contra-conga-servira-para-saber-quienes-traicionaron-a-cajamarca (03.10.2013).

76 http://www.huaraznoticiaseecom/locales/mineros-solucionan-conflicto-laboral (03.10.2013).

77 http://www.ancashnoticiaseecom/detalle-noticia.php?id=ancash.1574 (03.10.2013).

Principles on Business and Human Rights, the companies are obligated to avoid human rights violations through their own activities and to carry out investigations in the case of such violations and to introduce appropriate measures.[78] According to the Voluntary Principles, companies are obligated to reconcile or defuse predictable negative consequences – including misuse and violations of human rights.[79] The secret contract concluded between Minera Yanacocha and the National Police Force also contradicts the values of the Newmont Mining Corporation, the parent group, which promises on its homepage "honest and transparent communication".[80]

The companies justify the contracts in a strange way in public. Minera Yanacocha defended the need for police protection in a media report of 27 February 2013 by stating that there were a great deal of explosives and chemical materials to be found on their site.[81] The company claimed that in the face of possible theft it could have a negative effect on numerous people and the environment if no appropriate security measures were available, but in fact the violent events are evidence that the police presence at the mines was directed against possible protests by the population.

4 International agreements for indigenous peoples, mining of raw materials and human rights

The international community has developed various human rights instruments to guarantee the rights of indigenous peoples and to protect their environment. The two most important ones are the ILO Convention No. 169 of 1989 for indigenous and tribal peoples and the United Nations Declaration on the Rights of Indigenous Peoples of 2007. A central element that features prominently in both sets of legislation is the "free, prior and informed consent" (FPIC), which should be granted to indigenous peoples.

4.1 International legal framework for indigenous peoples and free, prior and informed consent

"Free, prior and informed consent" means that indigenous peoples must give their free agreement before use based on detailed information and before a third party can become active in their region. The principles also apply to mining: James Anaya, the UN Special Rapporteur on the rights of indigenous peoples, determined in his report of 1 July 2013 to the Human Rights Council that the mining of raw materials within the territories of indigenous people must not take place without their free, prior and informed consent.[82]

Consistent implementation of this principle could resolve the causes of many conflicts.

Peru has agreed to the UN Declaration on the Rights of Indigenous Peoples and thus basically acknowledged them. On 2 February 1994 the government ratified ILO Convention No. 169 and thus became obligated to enshrine the rights of the indigenous peoples in the national legislation. In September 2011 the Peruvian government passed the law concerning the right to prior consultation

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[78] Guiding Principles on Business and Human Rights, S. 14.

[79] Voluntary Principles on Security and Human Rights, S. 4.

[80] http://www.newmont.com/about/values (29.10.2013).

[81] http://www.yanacocha.com.pe/sala-de-prensa/ultimas-noticias/comunicado-de-prensa-13/ 26.09.2013.

[82] http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A-HRC-24-41_en.pdf

for indigenous peoples[83] and in March 2012 the regulations with the attendant rules on implementation.[84]

The regulations provide for the creation of a database[85] for public access that is to determine which peoples are to be seen as indigenous and thus have the right to consultation. In this respect there is some debate as to whether Campesinos should have the right to the status of “indigenous peoples”. The term “Campesino” became established after many persons of indigenous origin, who wished to distance themselves from the often negatively encumbered term “Indio”, started using it. Even if due to forced colonisation all related persons no longer speak the indigenous languages, such as Quechua for example, they identify with their original culture and see themselves as the descendants of the original inhabitants. The Peruvian Minister for Culture published the database on 25 October 2013. It contains a list of 52 indigenous peoples, 48 of whom are from the Amazonas and four of whom are from the Andes. Campesinos have not been included in the database, even though in Peruvian legislation it is already stated that Campesinos are one the indigenous peoples.[86] Patricia Balbuena, the vice-minister for intercultural affairs, intimates that the farming communities are not indigenous groups of the population and therefore have no right to prior consultation.[87] The database was published at a time when legal proceedings were taking place in respect of the criteria for inclusion in the database: the “Federación Distrital de Campesinos de Chinchaypujio” farmers association from the Cusco region brought a legal action as it feared that the Campesinos would be denied the rights which they are entitled to by the ILO Convention due to the fact that they do not meet two of the entitlement criteria: the indigenous language and common ownership of land.[88] The court of first instance ruled in favour of the Peruvian state, but the farmers association has appealed.[89]

A further point of contention is the question of whether the indigenous communities will have a veto right. The Peruvian government interprets the right of consultation in such a way that the indigenous communities must in most cases only be “informed” (consulted). Under certain conditions and according to the Declaration on the Rights of Indigenous Peoples, however, according to law consent by the indigenous communities is necessary, such as for relocation plans and “development plans or investment projects of great extent”. In the current version the national realisation of the international norm is far below the expectations of the indigenous peoples. Like many countries, Peru hesitates to see the agreement as a basis for companies dealing with local inhabitants.

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[83] Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios reconocido en el Convenio 169 de la Organización Internacional del Trabajo (OIT).

[84] Reglamento de la Ley N° 29785, Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios reconocido en el Convenio 169 de la Organización Internacional del Trabajo (OIT).

[85] Link to the database on indigenous peoples: http://bdpi.cultura.gob.pe/ (31.10.2013).

[86] http://servindi.org/actualidad/95452?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Servindi+%28Servicio+de+Informaci%C3%B3n+Indigena%29 (31.10.2013).

[87] http://www.larepublica.pe/26-10-2013/viceministra-de-interculturalidad-la-base-de-datos-contiene-52-pueblos-amazonicos-y-4-andinos (31.10.2013).

[88] http://servindi.org/actualidad/95452?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Servindi+%28Servicio+de+Informaci%C3%B3n+Indigena%29 (31.10.2013).

[89] http://servindi.org/actualidad/95452?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Servindi+%28Servicio+de+Informaci%C3%B3n+Indigena%29 (31.10.2013).

4.2 The Guiding Principles on Business and Human Rights

The Guiding Principles on Business and Human Rights are becoming increasingly important worldwide.[90] John Ruggie, the United Nations Secretary-General's Special Representative for Business and Human Rights, was entrusted with the task in 2005 of dealing with the question of how the effective protection of individuals and communities can be ensured against human rights violations by transnational companies. Ruggie developed a concept in this respect that was supported by three pillars: 1. States have the primary duty to protect human rights. 2. Companies are responsible for respecting human rights. 3. Those affected should have the possibility to use the mechanisms for complaint and access to remedy. The Guiding Principles on Business and Human Rights were created through this concept. On 16 June 2011 the United Nations Human Rights Council passed the Guiding Principles unanimously. They are not legally binding, but according to the Swiss Center of Expertise in Human Rights they have "through their wide acceptance great practical significance for Swiss companies investing abroad. Moreover, states are called upon to realise the Guiding Principles as a part of national legislation"[91].

The right of self-determination for indigenous peoples is not explicitly mentioned in the Guiding Principles. But within the sphere of the duty of care, the conduction of a conscientious process aimed at gaining the consent of the local populations affected so as to avoid conflicts is of central importance to mining companies whose activities have massive effects on local communities and the environment. Without their agreement the social situation can become explosive.

4.3 The Voluntary Principles on Security and Human Rights

As a reaction to attacks on civilians by private and state security forces, four countries, the USA, England, Holland and Norway, founded in 2000 the Voluntary Principles on Security and Human Rights.[92] Switzerland acknowledged the Principles in 2011 and in March 2013 assumed chairmanship for one year. The Voluntary Principles are obligatory for the undersigned companies and affiliated companies when they are majority owned by their respective parent company, but not for minority-held subsidiaries. The initiative defines a set of principles that guide the companies, such as how the security of their operations can be ensured without violating human rights. To achieve this, companies should carry out a detailed risk analysis. Moreover, they should consult the governments and local communities on their plans, explain their policies on ethics and human rights to the security services and make their security measures transparent and accessible to the public.

According to the Voluntary Principles, state security forces should comply with national laws, take protective measures to prevent human rights violations and to hinder care activities which endanger company personnel or facilities. If the companies finance equipment for the security forces, the Principles demand appropriate measures for minimising all foreseeable negative consequences. Furthermore, the Voluntary Principles contain a catalogue of measures for private security forces.[93]

The Voluntary Principles are increasingly under critical fire. In April 2013 *Oxfam,* a non-governmental organisation, withdrew its support, and *Amnesty International* followed on 3 June 2013. The main

[90] Guiding Principles on Business and Human Rights.

[91] http://www.skmr.ch/de/themenbereiche/wirtschaft/artikel/meilensteine.html?zur=94 (07.10.2013).

[92] Voluntary Principles on Security and Human Rights, www.voluntaryprincipleseeorg

[93] Further information available at http://www.voluntaryprincipleseeorg/what-are-the-voluntary-principles/

reason was the frustration that no significant advance in respect of independent control had been achieved and that the acknowledging companies assumed too little responsibility. A report on Nigeria by *EarthRights International* and *The Centre for Environment, Human Rights and Development*, which was published in May 2013, and a study in the Democratic Republic of Congo published in the *Special Research Report 700* of October 2011, criticize among other things the lack of consultation with local communities, weak realisation mechanisms and the poor results in terms of prevention of conflicts. In addition it has been found that there is a conflict of interest in the Democratic Republic of Congo in terms of both the cooperation of companies with state security forces and the blackmail or repression these security forces engage against the companies and the local population.[94] [95]

The situation in Peru also highlights the limits of the Voluntary Principles. The Yanacocha Mine signed up to them, but in 2012 the bloodiest conflict concerning raw materials in recent years in Peru took place during protests against Yanacocha Mine. According to statements issued by the secretary's office of the Voluntary Principles on Security and Human Rights, the Xstrata raw-materials group, owner of the Tintaya mine, acknowledged the Voluntary Principles in December 2012.[96] Already in 2011, Xstrata had informed Global Compact that it would stick to the Voluntary Principles in all of its operations.[97] Nevertheless, Xstrata undersigned a secret contract, as confirmed by the police force, with the National Police Force. As described above, conflicts also escalated around this mine. This fundamentally contradicts the aims of the Voluntary Principles.

Following the merger of Xstrata and Glencore, acknowledgement of Xstrata was rescinded and the newly formed Glencore Xstrata signed in July 2013 a declaration of intent for acknowledgement of the Voluntary Principles and follows a process of drawing up a plan of action for their realisation.[98]

The example of Antamina also shows how easy it is to abuse the situation: Antamina often declared acknowledgement of the Voluntary Principles[99], but it was not true at the time of the creation of this report. Only Antamina's minority shareholder BHP Billiton had acknowledged the Voluntary Principles. Indication of alleged acknowledgement disappeared from the homepage only after the Society for Threatened Peoples intervened with the secretary's office of the Voluntary Principles.[100]

Thus the Voluntary Principles are in danger of being presented as solutions to conflicts by companies and governments, but in reality are poorly applied due to a lack of controls. Reforms are there-

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[94] Assessing and Improving the Voluntary Principles on Security & Human Rights, Lessons from the Nigerian Experience, May 2013, EarthRights International & The Centre for Environment, Human Rights and Development.

[95] SFB 700 – Governance in Areas of Limited Statehood: From Compliance to Practice – mining companies and the Voluntary Principles on Security and Human Rights, in the Democratic Republic of Congo, Tanja A. Börzel/ Jana Hönke, SFB-Governance Working Paper Series 25, October 2011.

[96] E-mail correspondence between Society for Threatened Peoples and the secretary's office of the Voluntary Principles on Security and Human Rights of 11 and 12 November 2013.

[97] "All Xstrata operations are committed to the Voluntary Principles on Security and Human Rights and in 2010, all Xstrata's CBU's reported on implementation of these Principles", p. 1; 12.11.2013). http://unglobalcompact.org/system/attachments/11280/original/Xstrata_COP_2010.pdf?1311002081 (

[98] http://www.handelszeitung.ch/politik/bundesrat-holt-glencore-bord-482354 (10.10.2013).

[99] e.g. http://www.huaraznoticiaseecom/mineria/nota06396

[100] E-mail correspondence between the Society for Threatened Peoples and the secretary's office of Voluntary Principles on Security and Human Rights 12, 17 and 18 September 2013.

fore urgently needed: acknowledgement must be binding, standards improved, transparent reporting and controls introduced and a clear complaint procedure established with the possibility of sanctions. In the medium term the Voluntary Principles must become binding for all mining companies.

5 The Responsibility of Switzerland

5.1 Political responsibility

The Swiss Federal Council is aware of the problems within the raw materials sector. The raw materials baseline report of March 2013 emphasizes the great economic and financial policy-related significance of the raw materials sector for Switzerland and, among other things, acknowledges that promotion of this sector also engenders "risks to the reputation of individual companies as well as for Switzerland as a country."[101] But it was also made clear that "Switzerland is challenged to maintain and strengthen its attractive and reliable support of general conditions – including competitive taxation and an efficient financial centre".[102]

The Federal Council formulated its expectations of private enterprise as follows: "The Federal Council expects from all companies operating within or from Switzerland that they act with integrity and responsibility in respect of the maintenance of human rights as well as environmental and social standards, both at home and abroad. Above all in fragile states with poor governance, the inhabitants and the economy are especially affected by the failure to comply with international standards."

The Federal Council therefore recommends "continued assurance of attractive and reliable political, economic and general legal conditions" and "to realise basic multilateral standards in the raw materials sector". To counter the risks to Switzerland's reputation, it proposes, among other things, voluntary agreements such as the Extractive Industries Transparency Initiative, Global Compact, the Voluntary Principles, the Guiding Principles on Business and Human Rights and the OECD guidelines for multinational companies and the OECD Due Diligence Guidance and to undertake binding reforms only where pressure from G20, the USA or the OECD is sufficiently strong. The recommendations of the Federal Council thus largely appeal to the companies.

Switzerland assumes special responsibility with the Voluntary Principles on Security and Human Rights. With the plan of action for realisation of the Voluntary Principles, Switzerland already emphasises the intention to endorse and foster these Principles and to get, in particular, Swiss companies in the raw materials sector that are active abroad to sign up to them. The main aim of the Swiss commitment as an acknowledging country is to strengthen the initiative in such a way that it will be more effective and assume greater responsibility in respect of the realisation of the Principles. Moreover, Switzerland wishes to convince such countries as Peru and the Democratic Republic of Congo to implement the Voluntary Principles and to enhance the practical realisation of the Principles in those countries and the companies there and to develop risk analysis tools.[103] In its

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[101] Baseline report on raw materials, report to the Federal Council by the interdepartmental platform for raw materials, 27.3.2013, http://www.newseeadmin.ch/NSBSubscriber/message/attachments/30133.pdf&sa=U&ei=gwpQUqmHCKqS4ASb1oHYBw&ved=0CB4QFjAA&usg=AFQjCNFQzhlAloVXg_zRFdTvpxqa21FLbQ, S. 2 (4.10.2013).

[102] ditto

[103] Fact Sheet: Switzerland's Engagement in The VPs;

capacity as Chair, Switzerland could play a decisive role in rectifying the great deficiencies.

5.2 Economic responsibility

Switzerland is one of the world's most important trading hubs for raw materials and gold. In a very conservative estimation, the Society for Threatened Peoples assumes that at least a third of the mine gold produced worldwide is processed in a Swiss refinery.[104] In 2012 Peru exported more than 50% of its mined gold to Switzerland. Of the nine largest gold refineries in the world, four are in Switzerland: Valcambi, Metalor, Argor Heraeus and PAMP. In the first quarter of 2013 Valcambi imported 10,857kg of gold from Minera Yanacocha, Metalor totalling 10,119kg from 23 different Peruvian exporters, and PAMP 1,542 kg.[105]

Of all Peruvian export companies, with 1.58 billion US dollars Minera Yanacocha showed the greatest export value in Switzerland in 2012.[106] According to research undertaken by the Society for Threatened Peoples the gold is refined by the Swiss company, Valcambi. Valcambi, on the other hand, is majority owned by Newmont Mining, which also controls Yanacocha.

A special focus of attention is the Swiss-British company Glencore Xstrata. Through ownership of the Xstrata Tintaya mine and the minority holding of the Antamina mine it now has shares in at least two companies that have signed contracts with the police force. As the holding company Glencore Xstrata bears the responsibility for the companies' dealings and can assume a constructive solution to conflicts concerning the use of raw materials. Signing the declaration of intent is a small step in the right direction – a peaceful solution to conflicts on site is the aim.

Swiss banks are also involved. Crédit Suisse together Barclays Bank PLC granted the raw materials mining company, Sulliden Shahuindo, project financing of up to US$ 125 million. As described above, Sulliden also has a secret contract.[107]

With such large economic interests it is especially incumbent upon Switzerland to demand behaviour from the companies that conforms to human rights.

6 Demands

The systematic violation of human rights and the repressive violence in conflicts related to the mining of raw materials must be stopped. The authors of this report therefore demand the following:

- **by the government of Peru:**
  - the publication of all agreements concluded between mining companies and the Peruvian National Police Force and Army as well as the initiation of a process to cancel all such agreements;

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http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/human/humri.Par.0068.File.tmp/Fact%20Sheet_Switzerland%27s%20Engagement%20%20%202012%20(3).pdf (22.9.2013)

[104] Gold – Switzerland's role in a dirty business, http://assetseegfbv.ch/downloads/goldbericht_1.pdf, p. 3.

[105] According to database analyses by STP.

[106] Reporte de Comercio Bilateral Perú-Suiza, II Trim-2013, p. 6.

[107] http://www.sulliden.com/English/News/News/News-Details/2012/Sulliden-enters-into-US125-million-project-finance-mandate-with-Credit-Suisse-and-Barclays-Bank-for-its-Shahuindo-Project1131/default.aspx (15.11.2013)

- participation in the Voluntary Principles Initiative and the adoption of political measures aimed at ensuring the peaceful resolution of disputes with the involvement of all groups of people concerned;
- respect for the rights of local people, in particular their right to free, prior and informed consent, and guaranteed protection as stipulated by the Guiding Principles on Business and Human Rights (State Duty to Protect);
- the revocation of laws that criminalise peaceful protest and the abandonment of judicial proceedings against regional bodies and the leaders of social and environmental groups;
- the creation of a Truth Commission to review human rights violations linked to natural resources exploitation, as has been called for in the National Congress.

- **by mine operators:**
  - the immediate cancellation of all agreements concluded with the Peruvian National Police Force and Army;
  - the initiation of negotiations in good faith with all community groups subject to respect for the right to free, prior and informed consent (FPIC);
  - the formulation of corporate policy consistent with the Guiding Principles on Business and Human Rights (Corporate Responsibility to Respect) which prioritise respect for human rights ahead of economic interests.
- **by the Swiss government:**
  - the establishment of a binding duty of care (due diligence) for multinational corporations and the creation of a framework of legislation which allows responsible persons at parent company headquarters in Switzerland to be held legally accountable;
  - the initiation of a reform process during the Presidency of the Voluntary Principles on Security and Human Rights and as a participant in the Voluntary Principles in accordance with the demands set out in this report.
- **by consumers of raw materials:**
  - the formulation of raw materials procurement policies that require suppliers to guarantee production with the consent of the local population, respectful of human rights, satisfying strict environmental and social standards and supported by a reliable audit system (Chain of Custody).
- **by the Voluntary Principles:**
  - a ban on direct funding of security forces by mining companies, enforcement of participant companies' commitment to respect the Principles, in particular peaceful conflict resolution, improved standards and the establishment of robust reporting and monitoring supported by sanctions mechanisms, with the involvement of civil society organisations and the population affected.
  - steps to make the Voluntary Principles compulsory.
- **by the United Nations:**
  - initiatives aimed at the compulsory implementation of the Guiding Principles on Business and Human Rights based on the State Duty to Protect Human Rights, the Corporate Responsibility to Respect Human Rights and access for victims of human rights violations to administrative grievance and compensation mechanisms (Access to Remedy).

7. Annex: Information and detailed comparison of the contracts between the Peruvian national police, the military and the mining companies

	Minera Yanacocha SRL.	Minera Xstrata Tintaya S.A./ BHP Tintaya S.A.	Compañia Minera Antamina S.A.	Minera Sulliden Shahuindo SAC
General information				
Mine	Yanacocha mine, province of Cajamarca, region of Cajamarca	Until 2006: BHP Tintaya S.A.; Since then: Xstrata Tintaya mine, province of Espinar, region of Cusco Tintaya Antapaccay mine extension, active since November 2012	Antamina mine, province of Huari, region of Ancash	Shahuindo project, province of Cajabamba, region of Cajamarca, start-up of the mine planned for 2014
Ownership ratios	51.35% Newmont Mining Corporation, 43.65% Buenaventura, 5% International Finance Corporation, IFC	100% Xstrata since 2006 and since the fusion in 2013 part of the Glencore Xstrata Group	33.75% Glencore Xstrata, 33.75% BHP Billiton, 22.5% Teck, 10% Mitsubishi Corporation	100% Sulliden Gold Corporation Ltd.
Products	Gold	Copper, by-product gold	Copper, zinc and molybdenum concentrates, by-products silver and lead	Gold and silver
Participation in the "Voluntary Principles on Security and Human Rights"	Newmont Mining Corporation is a participant, which also obligates Yanacocha due to majority holding	2012: joining of Xstrata July 2013: Glencore Xstrata's declaration of intent to join	No, but Antamina has repetedly declared that it is a participant. Only BHP Billiton is a participant.	No
Content of contracts				
References to human rights	Capacity building of the Peruvian national police in respect of human rights and security, after prior agreement	Unknown	Antamina and the national police are obligated by their human rights manual and the "Voluntary Principles on Security and Human Rights"to protect and maintain human rights.	No details in the contract
Contract designation	Contract for the provision of extraordinary services in addition to police functions between the Peruvian national police, XIV territorial head office of the police of Cajamarca and the Yanacocha Mine SRL	17 additional contract clauses with the Peruvian national police regarding the provision of services for surveillance, general security and inspection and control of chemical substances at the Tintaya mining camp	Contract between the Peruvian national police and Minera Antamina S.A. for the provision of extraordinary services in addition to police functions	Contract between Sulliden Shahuindo SAC mine and the Peruvian national police for the provision of extraordinary services in addition to police functions
Validity and possibility for extension	31 March 2011 - 31 December 2012, extended to 31 March 2013, extendable	First contract signed on 17 February 2000, in force for one year from 1 March 2000. The 17th supplementary contract was valid until 31 May 2006, extendable. The attached exchange of correspondence between the Ministry of the Interior and Cooperacción is dated 17 October 2011 and gives the impression that the contract with the police continues to be valid.	In one part of the contract, one year is mentioned, in another part of the same contract two years is mentioned. Signed on 22 June 2012, extendable.	Two years, signed on 1 October 2008, extendable
Explicit secrecy clause	Yes	Unknown	No	Yes
Contract objectives	• Definition of terms and conditions for the national police security services • Implementation of additional security and protection for Minera Yanacocha, its personnel and installations • Extraordinary, permanent institutional services by the national police with the goal of preventing offences and attacks on persons, goods, machines and installations of Minera Yanacocha and its contractors • Preventive measures and patrols with the goal of disclosing, recognising and neutralising risks • Provision of individualised services	• In the additional clauses, a contract extension and the number of police personnel are defined (until mid-2001: eight police officers, can be amended in writing; from 11 June 2001: one officer and nine non-commissioned officers equipped with long and short range weapons as well as uniforms and bed linen)	•Permanent police security, control and surveillance to guarantee Antamina's normal execution of activities with a national interest and with a strategic value for the economic development of the country • Individualised police services • Preventative measures and patrols to disclose, recognise and neutralise risks to the personnel and the installations of Antamina	• Planing coordination mechanisms for the provision of extraordinary, additional police services • Security, surveillance and protection of the team and the property as well as guaranteeing research and dismantling activities and maintenance of order on the mining premises • Preventative measures and patrols to prevent, disclose and neutralise risks and the offences and attacks on Sulliden and it's contractual partner's persons and installations

	Minera Yanacocha SRL.	Minera Xstrata Tintaya S.A./ BHP Tintaya S.A.	Compañía Minera Antamina S.A.	Minera Sulliden Shahuindo SAC
Personnel deployed	• Number of officers and non-commissioned officers not defined • Individualised services by police officers on leave or freelancers, when necessary supplementation by the contingent on duty • Three eight-hour shifts; police officers must remain on the premises equipped, in uniform and on alert for 24 hours • One coordinator each from Minera Yanacocha and the national police	• One officer and nine non-commissioned officers provided with long and short range weapons and uniforms • One additional police officer specialised in the control of chemical products (from 1 January 2002) • Two secret service employees • The number of officers can be amended by Xstrata in writing to the police department	• Minimum 20 police officers, modification of quantity according to necessity and requirements of Antamina and according to the availability of police officers at the base. • Police presence 24 hours a day. • Relief of personnel every 30 days, except in exceptional circumstances	• One officer and 14 non-commissioned officers • Three eight-hour shifts; police officers must remain on the premises equipped, uniformed and on alert 24 hours a day • Individualised services: police officers that are on leave and voluntarily participate
National police responsibility	• Planning, execution and control of the security services, patrols • Provision of personnel specialised in crowd control, additional units are to be implemented in emergencies • 24 hour Security Service • Intervention by the national police in special situations that directly affect the physical integrity of Minera Yanacocha's workers, contractors and goods • Additional services provided by police personnel on agreement • The national police can request additional support from Minera Yanacocha for improvements to their infrastructure and equipment to the benefit of the population of Cajamarca, however, only with Minera Yanacocha's consent	(No details in the additional clauses)	• Mobilisation of police officers by the national police for preventative measures and patrols to prevent, disclose and neutralise risks to Antamina's personnel, property and equipment and to guarantee the normal execution of Antamina's activities • Mobile patrols with vehicles • Prevention, definition and neutralisation of acts of sabotage, terrorism and other threats to Antamina's personnel, property, machines and teams	• Planning, execution and control of the special security plan for the protection of the rights of Sulliden mine workers, properties and facilties • Guaranteeing the protection of civil servants, workers and contractors • Uniforming and arming police officers • Anticipating, determining and neutralising acts of sabotage, terrorism and threats to personnel, property and teams • Appointment of personnel for night duty • On request by Sulliden, the national police provides additional police officers in special situations and/or emergencies
Company responsibilities	• Transport, vehicles, accommodation, personal hygiene and catering for police personnel • Protection of materials or logistical devices used to fulfil the functions of police personnel • Insurance for police personnel • Possible treatment in the capital or abroad • Equipment for the execution of police services • Costs for transport of other police units • Permanent, free legal consultation for police personnel who become involved in legal processes engendered by these activities • Flight- and transport costs to Lima for the director or his deputy • Written request by Minera Yanacocha for additional national police security. In an emergency: telephone request and subsequent written confirmation	Numbers may vary according to the wishes of Xstrata on written request to the police unit	• Insurance for police personnel to cover accidents while on duty • Financial and logistic support of investment- and development projects designed by the national police to fulfil their purpose and institutional goals in the service of the community in general • Material for Antamina: 1 computer with Internet access, 1 internal Antamina network telephone, 2 portable radios, 1 mobile phone. • Transport and catering for the police officers • Logistic aid • Medical aid for police officers • Further relief measures for storage and monitoring logistic materials	• Insurance for police personnel to cover accidents while on duty • Medical aid, medicines and hospitalisation for police officers, expenses for medical care • Accommodation, provisions, furnishings, communication equipment and transport for police officers • Additional facilities for the storage and surveillance of logistic materials • Sulliden can demand police support on the premises and at plants to maintain the appropriate rights for mine workers in emergency situations

	Minera Yanacocha SRL.	Minera Xstrata Tintaya S.A./ BHP Tintaya S.A.	Compañía Minera Antamina S.A.	Minera Sulliden Shahuindo SAC
Direct payment to police officers	0.11% of the taxable amount monthly (Unidad Impositiva Tributaria - UIT) to compensate logistic or administrative costs accrued by the national police Police duty at the mine: • Officer S/. 38.- per day • Non-commissioned officer: S/. 18.- per day Police duty on the Coast-Cajamarca Road: • Officer: S/. 48.- per day • Non-commissioned officer: S/. 28.- per day • Duty in places without accommodation and provisions: S/. 78.- per day • Duty on 28 and 29 July and 25 and 31 December: double pay • Additional: possible special bonus due to distance from home	Since 11 July 2001 all on-duty police personnel receive, directly and personally, the following pay every two weeks, which includes a bonus, provisions and travel costs: • Director of the 10th region of the national police, General Carlos Enrique Villacorta Saco: S/. 850.- • Director in Cusco: S/. 350.- (from the 3rd additional clause) • Director of the secret service: S/. 350.- (from the 4th additional clause) • Chief inspector of the Espinar commissioner's office: S/. 350.- • Personnel of the Tintaya police office: S/. 641.60.- (raised to S/. 802.- by the 2nd additional clause) • Police personnel in Cusco: S/. 802.- • Sicuani commando: S/. 350.- • Secret police personnel: S/. 802.- (from the 4th additional clause) An additional 10% of the total is transferred to the national police welfare fund	• Officers and non-commissioned officers: 0.53% of the UIT, valid for the day services are executed, per hour worked (max. 8 hours daily). • Other non-commissioned officers: 0.35% of the UIT. • Duty on 28 and 29 July and on 25 and 31 December: double pay • Antamina additionally pays the national police 0.11% of the appropriate UIT sum. According to the newspaper article "Policía mercenaria" (Hildebrandt en sus Trece, April 2013), the officers earn S/. 19.- per hour, non-commissioned officers S/. 13.- per hour	• Police officers: S/. 100.- per day • Officers: S/. 120.- per day
Compensation from health insurance	• Death: US$ 20,000 • Permanent loss of work capacity/ invalidity: US$ 18,000 • Treatment for severe injuries: to US$ 10,000 • Treatment for slight injuries: to US$ 3,500 • Funeral: US$ 3,500 • Ambulance services: up to 100%	Unknown	Similar to Minera Yanacocha	Similar to Minera Yanacocha
Replacement of non-functional weapons and equipment	Minera Yanacocha covers the expenses for maintenance and repair of equipment and accessories and replaces police uniforms destroyed in the course of duty, except when the damage is due to police personnel negligence.	Unknown	Antamina assumes the expenses for the replacement of police arms in the case of loss consequential to confrontation with criminal terrorists, communities or groups organised within the scope of activity and also during the deployment of personnel relief from the Lima base to the place of duty and vice versa. Antamina is not obligated to assume costs for the replacement of equipment if the loss is the result of negligence or criminal acts undertaken by police officers.	A sum amounting to 20% of the salary of police officers is paid monthly into the account; the money is used for equipment and operations of the police unit according to their needs and wishes.

	Gold Fields La Cima S.A.	Compañía Minera Santa Luisa S.A.	Compañía Minera Coimolache	Compañía Minera Afrodita (contract with the military)
General information				
Mine	Cerro Corona project, province of Hualgayoc, region of Cajamarca	Huanzalá mine, province of Bolognesi, region of Ancash	Tantahuatay project, province of Hualgayoc, region of Cajamarca	Mine Afrodita, province of Condorcanqui, region of Amazonas
Ownership ratios	100% Gold Fields La Cima S. A.	100% Compañía Minera Santa Luisa S.A.	40.1% Buenaventura, 44.2% Southern Peru and 15.7% Espro S.A.C.	Compañía Minera Afrodita S.A.C.
Products	Gold and copper	Zinc and lead	Gold, silver, copper	Gold and silver
Participation in the "Voluntary Principles on Security and Human Rights"	No	No	No	No
Content of contracts				
References to human rights	No details in the contract	No details in the contract	No indication in the contract	No indication in the contract
Contract designation	Contract between the Peruvian national police and Gold Fields La Cima S.A. for the provision of extraordinary services in addition to police functions	Cooperation contract between Compañía Minera Santa Luisa S.A and the Peruvian national police for the provision of extraordinary services in addition to police functions	Contract between the Peruvian national police and the Minera Coimolache company for the provision of extraordinary services in addition to police functions	Contract based on mutual cooperation (between Compañía Minera Afrodita and the Peruvian national police)
Validity and possibility for extension	Two years, signed on 11 January 2010, extendable	One to two years, signed on 5 March 2008, extendable	2 years, signed on 31 August 2010, extendable	2 calendar years, since 3 May 2010, automatically extendable
Explicit secrecy clause	Yes	No	Yes	No
Contract objectives	• Guaranteeing permanent, extraordinary and additional institutional services by the national police for the normal execution of Gold Fields' administrative and productive activities • Offering protection and security • Preventative measures and patrols to disclose and neutralise possible risks and prevent offences or violent acts of any kind • Provision of individualised services	• Planing coordination mechanisms to enable extraordinary and additional police services • Preventative measures and patrols by the national police force to disclose and neutralise risks against Santa Luisas workers and installations and thus to guarantee the normal development of the mining activities	• Guaranteeing permanent extraordinary, and additional institutional services by the national police for the normal execution of Minera Coimolache's administrative and productive activities. • Offering protection and security. • Preventative measures and patrols to disclose and neutralise possible risks and to prevent offences or acts of violence of any kind • Provision of individualised services	• The parties are liable to provide mutual aid. Goal: improvement of the infrastructural conditions of the Sixth Brigade.
Personnel deployed	• One officer and nine non-commissioned officers • Three eight-hour shifts, police officers must remain on the premises equipped, uniformed and on alert 24 hours a day • One coordinator each from Gold Fields and the national police force • Individualised services by police officers during their leave or free time	• Minimum one officer and 14 non-commissioned officers • One coordinator each from Santa Luisa and the national police • Police officers must remain on the premises equipped and uniformed 24 hours a day	• One officer from the Peruvian national police and 29 uniformly equipped non-commissioned officers • 24 hour service, in three eight-hour shifts • Police officers are on duty for one shift per day; the remainder of the time police officers must remain on the premises equipped and uniformed 24 hours a day. In the case of additional services: the police personnel will be paid for the additional service time according to the rates listed below	• Army personnel from the Sixth Brigade; no exact numbers

	Gold Fields La Cima S.A.	Compañía Minera Santa Luisa S.A.	Compañía Minera Coimolache	Compañía Minera Afrodita (contract with the military)
National police responsibility	• Permanent, extraordinary and additional institutional services provided by the national police to guarantee the normal execution of Gold Fields' administrative and economic activities • Protection and security of mine personnel, property, facilities and contractors • The police (...) protect mine workers and mine properties against all types of damaging acts, such as sabotage, terrorism, blockades, disruptions, attacks and other acts for which the police are necessary for prevention or control • Securing and protecting nitrate, explosive and ignition device warehouses • Constant control rounds on foot, horseback or in a vehicle • Constant patrols on the Bambamarca-Hualgayoc-Cajamarca road • Prevention of illegal acts and attacks on public order • Coordination of the activities of the national police with Gold Fields' surveillance personnel	• 24-hour security service • Patrol duties • Prevention, disclure and neutralisation of acts of sabotage, terrorism and other threats on Santa Luisa's personnel, property and facilities • The national police must ensure that the police officers are capable and physically, mentally and morally fit to execute their functions and obligations; they must also be equipped with the appropriate weapons and uniforms	• Preventative measures for ensuring public order • Protection and security for mine personnel, property and facilities and for the company • The police consider complaints about offences and errors, protect mine workers and premises against all kinds of damaging acts such as sabotage, terrorism, blockades, destruction, attacks and other acts for which police prevention and controls is necessary • Police services by means of unannounced patrols in the mine explosive and ignition device warehouses • Constant control rounds on foot, horseback or in a vehicle in the mine's surroundings to prevent illegal activities and terrorist attacks • Constant patrols on the Cajamarca-Hualgayoc road and other access roads to ensure the security of the mine personnel and the company	• Transport of army personnel to the mine concession areas • Security • Communication
Company responsibilities	• Compensation for accommodation, provisions and transport • Medical aid and ambulance transport to the medical centre, even to Lima if necessary • Transport or fuel for police personnel • Financial and logistic support for the national police's research and development projects • Financial contribution of S/. 100,000.- for the construction of a building for the national police in Hualgayoc • Financial contribution for the creation of a criminalistic toolbox containing appropriate accessories for the police unit • Necessary means for the national police according to their wishes, e.g. four-wheel drive vehicles or horses • Medical insurance for police officers	• Communication equipment for on-duty officers • Provisions and accommodation for police officers • Transport for the national police during shift change • Insurance for personal accidents of police personnel while on duty • Necessary means for storage and surveillance of the police's logistic materials • Financial and logistic support for the national police's research and development projects	• Payment to police personnel within five working days • Logistic support for the transport of police and equipment from Lima to Cajamarca. • Travel money for police personnel travelling to the police station in Lima • Medical aid for illnesses which arise as a result of duties • Transport or petrol for police personnel for the journey from Cajamarca to the mining camp and vice versa • Insurance policy for police personnel	• Securing medical aid and medicines • Electricity on the company premises • Transport of personnel to the military camp
Direct payment to police officers	• Police officers receive a maximum of 0.25% of the UIT per hour as financial compensation. • Officers with a title from Commander to Major: S/. 150.- • Officers with other titles: S/. 120.- • Non-commissioned officers: S/. 100.- • Duty on 28 and 29 July and on 25 and 31 December: double pay • Without accommodation and provisions: majors S/. 180.-, captains, lieutenants and cadets: S/. 160.-, non-commissioned officers: S/. 140.-	• Officers: S/. 100.- per day • Non-commissioned officers: S/. 80.- per day	• National police officers, commanders, majors: 0.25% of the UIT, valid for the day of service, per working hour, also S/. 18.75 per hour (eight-hour working day). • National police officers serving as lieutenants or cadets: 0.43% of the UIT, also S/. 16.48 per working hour. • National police force non-commissioned officers: 0.34% of the UIT, valid for the period within which duties are performed, also S/. 12.50 per working hour (eight-hour working day). • Duty on 28 and 29 July and 25 and 31 December: double pay.	• Annual payment of S/. 80,000.-, divided into four trimestral payments of S/. 20,000.-

	Gold Fields La Cima S.A.	Compañía Minera Santa Luisa S.A.	Compañía Minera Coimolache	Compañía Minera Afrodita (contract with the military)
Compensation from health insurance	Similar to Minera Yanacocha	Similar to Minera Yanacocha	Similar to Minera Yanacocha	No details
Replacement of non-functional weapons and equipment	Gold Fields pays a monthly sum into the national police account as follows: 0.11% per hour of the UIT, which is directly allocated to the national police to cover logistic and administrative expenses arising for additional services.	A sum equal to 20% of the police salary is to be paid into an account. The money is used for logistic, administrative and other expenses. Santa Luisa must assume the costs for the replacement of weapons in the case of loss of equipment as a consequence of confrontations with illegal terrorists, communities or groups organised within the sphere of influence, also during the movement of personnel from the base in Lima to the place of duty and vice versa.	A sum is paid monthly into the national police's account to cover the logistic and administrative expenses of the national police force during exceptional duties.	The above-listed amounts are used only for the purchase of equipment and materials on request of the Sixth Brigade.